

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND	)	
ELECTRIC COMPANY FOR CERTIFICATES OF	)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY AND	)	2011-00162
APPROVAL OF ITS 2011 COMPLIANCE PLAN	)	
FOR RECOVERY BY ENVIRONMENTAL	)	
SURCHARGE	)	

O R D E R

On November 10, 2011, Daniel Cobble, a resident of Louisville, Kentucky, submitted a written request for formal recognition as an intervenor in this proceeding. His November 10, 2011 request is titled, "Common Law Allows Cobble as Intervenor," and he incorporates therein by reference a prior document he submitted on October 31, 2011 titled, "On Motion." Mr. Cobble's prior submittal was accepted as a formal protest by Commission letter dated November 2, 2011. For the purpose of this Order, the Commission will treat both of Mr. Cobble's documents as if they were one.

Mr. Cobble's request claims the pending application for rate increases by Louisville Gas and Electric Company ("LG&E") is unreasonable, improper, and inequitable for Kentuckiana ratepayers; he requests a public hearing; and he asserts that under common law, if the Commission and LG&E do not answer his allegations of inequities, LG&E's application cannot be approved.

On November 18, 2011, LG&E filed a response in opposition to Mr. Cobble's request to intervene. The response states that Mr. Cobble has not met the requirements to be granted intervention because: (1) he has not shown a special

interest in the case; (2) he has not shown that he is likely to present issues or develop facts that might assist the Commission in its consideration of this case; and (3) his motion is untimely since it was mailed on November 9, 2011, the same date that the Commission held the evidentiary hearing in this case.

Based on Mr. Cobble's request to intervene and being otherwise sufficiently advised, the Commission finds that the only person that has a statutory right to intervene is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission. In the recent unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007), the Court of Appeals ruled that this Commission retains power in its discretion to grant or deny a motion for intervention but that discretion is not unlimited. The Court then enumerated the statutory and regulatory limits on the Commission's discretion in ruling on motions for intervention. The statutory limitation, KRS 278.040(2), requires that the person seeking intervention have an interest in the rates or service of a utility as those are the only two subjects under the jurisdiction of the Commission. The regulatory limitation of 807 KAR 5:001, Section 3(8) requires that a person demonstrate a special interest in the proceeding which is not otherwise adequately represented or that intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. It is under these statutory and regulatory criteria that the Commission reviews a motion to intervene.

Having reviewed Mr. Cobble's request, the Commission finds that he has not shown that he has a special interest which is not otherwise adequately represented in

this case. Mr. Cobble's sole interest is as a ratepayer, and that is an interest he shares in common with LG&E's approximately 400,000 other ratepayers. Intervention has already been granted to the Attorney General's Office, which is charged to represent the interests of all ratepayers. In addition, Mr. Cobble has not shown that he has any expertise in utility ratemaking. Consequently, the Commission is unable to find that granting him status as an intervenor would likely result in his presenting issues or developing facts that would assist the Commission in fully considering this case without unduly complicating or disrupting the proceedings. Further, we note that a public meeting and a public hearing have already been held in this case; a public meeting on September 6, 2011, at Johnson Traditional Middle School in Louisville, Kentucky to receive input and comment from ratepayers and members of the public; and a public hearing on November 9-10, 2011 at the Commission's offices in Frankfort, Kentucky to receive evidence from LG&E and the parties to the case.

Although Mr. Cobble is not granted intervenor status, he can review all documents filed in this case and monitor the proceedings via the Commission's website at the following web address:

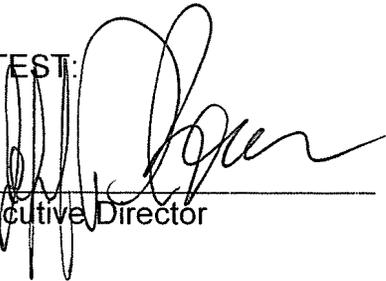
<http://psc.ky.gov/Home/Library?type=Cases&folder=2011%20cases/2011-00162>.

Mr. Cobble may also file comments as frequently as he chooses, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that Mr. Cobble's request for intervention is denied.

By the Commission

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